



City of McMinnville
Public Works Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7312
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: July 18, 2023
TO: Jeff Towery, City Manager
FROM: Anne Pagano, Public Works Director
SUBJECT: Stormwater Utility Analysis Council Work Session August 8, 2023

Report in Brief:

The purpose of the City Council Work Session on August 8, 2023, is to provide background information and need regarding consideration of establishing a Stormwater Utility, and to provide an update on our progress in the analysis from our Consultant, Deb Galardi. We will also touch on the status of the Wastewater Master Plan, and the combined Advisory Committee that staff will be assembling.

Background:

Stormwater Utility

One of the City's values is Stewardship. As stated in the Mac-Town 2032 Strategic Plan, "*We are responsible caretakers of our shared public assets and resources. We do this to preserve the strong sense of community pride which is a McMinnville trademark.*" Additionally, one of the Council's goals is to "*create and implement an environmental sustainability and/or a Climate Action Plan*". The City's stormwater system does not have sufficient and sustainable funding to achieve this goal relative to protecting waterways from pollution and erosion. There are long standing, substantial funding shortfalls for preventive maintenance, replacement of aging infrastructure, and to meet broader and increasingly restrictive water quality regulatory requirements.

This lack of resources compromises the City's efforts to be responsible environmental stewards. Limited funding from Wastewater Services and Street Funds provides resources to address reactive needs only. These funds are dedicated to wastewater and transportation needs. Consequently, the stormwater system has taken a backseat to targeted needs for these funds.

A stormwater utility would apportion operating and capital expenses to users based on system demand and benefit, similar in concept and practice used for the wastewater utility. A stormwater utility concept

is broadly recognized, in Oregon and nationally, as an equitable and sustainable approach for management of a community's stormwater system.

Wastewater Master Plan Update

The City contracted with Jacobs Engineering Group in 2022 to update the 2008 Wastewater Master Plan. The scope of work includes a system wide evaluation of the wastewater conveyance and treatment infrastructure. This includes new population projections, condition assessments and capital improvements needed to meet stringent permit requirements. The scope of work also includes an update of the City's wastewater user fees, Sewer Systems Development Charges (SDC) and Wastewater Financial Plan.

Discussion:

Stormwater Utility

The community's stormwater system serves a watershed area of approximately 10,700 acres through an integrated system of catch basins, detention basins, open channels (drainageways, creeks) and storm sewers. The service area within the Urban Growth Boundary encompasses roughly 8,400 acres of the watershed. Our earliest records for the system date back to facilities constructed in 1911 that have continued in service for more than 100 years.

Stormwater facilities include:

- 3,665 catch basins
- 17 detention basins
- 45 miles of open channel drainageways
- 114 miles of storm sewers

These facilities are significant, sustained investments in the stormwater system. They minimize health, life and safety risks during flooding, protect properties from damage due to localized flooding, protect water quality by capturing sediments, heavy metals and nutrients bound to these solids, and reduce oil and grease from entering waterways.

The regulatory environment for management of stormwater quality, most recently with the Mercury Total Maximum Daily Load (TMDL), have resulted in unfunded mandates the City must comply with to avoid enforcement action. The City will be embarking on an update to the 2009 Stormwater Master Plan next year and is currently working to meet Mercury TMDL requirements over the next five years as required by the TMDL. A dedicated funding source is needed for both activities soon.

Once the Stormwater Master Plan is completed, the City will have a list of capital improvements that are recommended over a period of time. A funding source will be needed to implement these projects.

In addition to current TMDL regulatory requirements, McMinnville, potentially in the near future, will be required to obtain a permit for stormwater discharged to drainageways and the South Yamhill River. This permitting process is authorized by the federal Clean Water Act as part of the National Pollutant Discharge Elimination System (NPDES) and goes by the acronym MS4 (municipal separate storm sewer system). MS4 permits regulate operation and management of the community's stormwater system, including streets, catch basins, constructed channels and storm drains. Municipalities that need to obtain an MS4 permit are classified as either a "Phase I" or "Phase II" MS4. Phase I MS4s cover areas with populations greater than 100,000 (large and medium) while regulated Phase II (small) MS4s serve populations less than 100,000.

EPA and DEQ have the discretion to require smaller communities or groups of communities to operate under an MS4 permit. Newberg, Albany, Ashland, Corvallis, Oregon City, Wilsonville are examples where DEQ has exercised their discretion to require MS4 permits for smaller cities. We anticipate the State Department of Environmental Quality will require McMinnville to operate under an MS4 permit within the next five-years.

Once in place, the MS4 permit will be a substantial, sustained, and costly regulatory requirement. Specific elements of an MS4 permit may include:

- Development and implementation of a Stormwater Management Plan
- Stormwater management programs for new construction
- Erosion and sediment control programs
- Programs to reduce illicit discharges and ensure proper disposal of household hazardous wastes
- Spill prevention and response program
- Ongoing water quality monitoring to characterize stormwater and identify pollutants
- Implementation of TMDL Action Plans
- Pesticide, herbicide, and fertilizer management programs
- Programs to address discharges from industrial facilities

McMinnville does not currently have dedicated funding to meet upcoming MS4 permit requirements. Compliance with the Federal Clean Water Act MS4 permits will be required but is also consistent with City's goal for responsive environmental stewardship. One element for the Stormwater Master Plan Update will be development of a comprehensive Stormwater Management Plan and projection of actions and funding needed to meet future MS4 permit requirements.

The City has a duty to comply with all elements of the MS4 permit or face enforcement actions by DEQ and possible third-party litigation. DEQ's specific language for non-compliance with permit conditions is cited below:

The permittee must comply with all conditions of this permit. Failure to comply with any permit condition is a violation of Oregon Revised Statutes (ORS) 468B.025 and the federal Clean Water Act and is grounds for an enforcement action. Failure to comply is also grounds for DEQ to terminate, modify and reissue, revoke, or deny renewal of a permit.

The City's Operations, Wastewater and Engineering staff maintain this network and meet regulatory requirements within current funding limits. Limited and unstable funding has made operation of the system largely reactionary with no resources for a managed preventive maintenance program.

The infrastructure is aging and much of it has exceeded or is approaching the end of its service life. Funding for a storm sewer replacement capital improvements program has been largely absent. There are several known points of failure in the system along major storm drain trunk lines that are near failure and may require emergency repairs rather than planned replacements through a capital improvements program.

Our current funding approach for the stormwater system does not equitably apportion costs based on demand and benefits. Wastewater user fees are based on the volume and strength of wastewater. Street Fund revenue is funded from gas tax. The current funding approach limits services targeted for these funds. In the case of the Wastewater Fund, resources are diverted from preventive maintenance and capital improvements to clean and inspect high priority stormwater lines and meet emergency needs. Street funds are diverted for street sweeping, catch basin cleaning, and limited maintenance of detention basins. This funding could be dedicated to pavement management and measures to extend the service lives of arterial and collector roadways.

The Stormwater Utility Analysis was initiated to explore more equitable and sustainable ways to fund operation of the stormwater system. The analysis began in October 2022 when the City contracted with Galardi Rothstein Group to develop rate alternatives and a financial needs assessment, and to provide public engagement assistance. The Galardi Rothstein team is well known and experienced in development of stormwater utilities in Oregon and nationwide. A memorandum from the Galardi Rothstein Group summarizing our progress to date on the Stormwater Utility analysis is included as Attachment No. 1.

Over ninety percent of stormwater utilities nationwide use impervious areas as the basis for charging stormwater user fees. Impervious areas are used because stormwater runoff from these areas is directly related to stormwater system management needs. Consequently, one of the first steps in developing a stormwater utility is to determine a community's impervious areas.

The City retained the firm of Raftelis Financial Consultants, Inc. in April 2023 for GIS services to measure impervious areas for a sample of residential and all commercial, industrial, multifamily, and institutional properties. Raftelis completed their analysis of representative residential properties in June 2023. The impervious areas for residential properties are generally similar (with a few outliers) and a uniform charge for this user group has been assumed. A copy of Raftelis' residential property analysis is included as Attachment No. 2. There are significant variations in impervious areas for nonresidential customers and individual measurements for each customer are required to achieve equitable user fee rates. Measurements of non-residential properties are expected to be completed in September 2023.

Wastewater Master Plan Update

Initial data collection for the Wastewater Master Plan has been completed. Jacobs anticipates most of the technical work will be completed in early 2024. The technical analysis will result in recommended conveyance and treatment improvements. Staff anticipates the recommended improvements will be substantial given a tightening regulatory environment and our discharge to the South Yamhill River, a low flow stream.

The final step in the Wastewater Master Plan update will be to consider how the recommended operating, maintenance and capital needs can be funded. This will involve a review of user fee rates, fee structure and Sewer SDC charges.

Public Engagement

Targeted public engagement is essential to community understanding, support, and policy choices regarding the level of service, cost of this service and rate payer equity in apportioning costs for the stormwater and wastewater utilities.

Staff will be using public engagement tools to help foster a transparent, open process as alternatives are developed. These tools include, but are not limited to:

- Project status summaries on the City's IHeartMAC web site,
- Technical information regarding stormwater and wastewater rate alternatives,
- Public meetings to share results of the Stormwater Utility Analysis,
- Public meetings to share results of the Wastewater Master Plan,
- Presentation to the City's Affordable Housing and Diversity, Equity and Inclusion Committees,
- City Council Work Session to share results of the Stormwater Utility Analysis, and
- City Council Work Session to share results of the Wastewater Master Plan.

A combined Stormwater/Wastewater Project Advisory Committee will be efficient given the commonality of infrastructure, regulatory and environmental requirements, understanding utility rate financing, cost allocation, rate equity and rate credits.

The Stormwater Utility and the Wastewater Master Plan Update are, in themselves, significant community investments. Funding recommendations from both efforts will have substantial, long-term financial and level of service value to the community. Staff will be recruiting representatives for the Stormwater/Wastewater Project Advisory Committee in August in anticipation of a first meeting in September 2023. The Project Advisory Committee would be a limited duration, project focused group that will engage and participate in the evaluation of funding alternatives for both utilities.

The Committee will be targeted at customer groups. A nine-member Project Advisory Committee will be formed with the following user groups represented.

- (5) members, Single and Multiple Family user representatives
- (1) member, Industrial user representative
- (1) member, Commercial user representative
- (1) member, Development Community user representative
- (1) member, Institutional user representative

The financial impact and complexity of user fee structure alternatives are significant, and staff are recommending a City Council member serve as a liaison with the Project Advisory Committee.

The Project Advisory Committee will meet every other month for a total of 6 meetings between September 2023 and July 2024. We anticipate each meeting will be for approximately two hours. Additionally, the Committee or a representative will attend two City Council Work Sessions (one for Stormwater and one for Wastewater), and two public meetings (one for Stormwater, one for Wastewater).

Stormwater and wastewater topics will be discussed at each Committee meeting. The initial focus will be on the Stormwater Utility. This focus will change to the Wastewater Master Plan Update, rates and Sewer SDC as the Stormwater Analysis is completed and the scope and cost of recommended wastewater projects are available.

Recommendation:

Staff recommends the City Council appoint a Council liaison for the Stormwater/Wastewater Project Advisory Committee.

Attachments:

1. Galardi Rothstein Group Memo
2. Raffelis GIS report, ERU Analysis